IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

Bail Appl..No. 4246 of 2007()

[CRIME NO.R.C.NO.29(s)/2006 OF CBI/KOCHI]

PETITIONER/2ND ACCUSED

SHAJI MATHEW,
MADAPALLIMATTOOM HOUSE,
MOOZHOOR P.O.,
KOTTAYAM DISTRICT.

BY ADV. SRI.SHAJI THOMAS PORKKATTIL
SRI.BINU PAUL

RESPONDENTS:

CENTRAL BUREAU OF INVESTIGATION (CBI)
REPRESENTED BY THE SUPERINTENDENT OF POLICE
KATHRUKADAVU,KOCHI-17.

BY ADV. SRI.S.SREEKUMAR, SC FOR CBI
SRI.P.PARAMESWARAN NAIR,SPL.PROSECUTOR FOR CBI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4246 of 2007

Dated this the 16th day of July 2007

O R D E R

Application for anticipatory bail. The petitioner is the second accused. He faces allegations inter alia under Section 420 I.P.C. Altogether there are six accused persons. Five of the accused persons are brothers. The sixth person (accused 5) is the brother-in-law of one of the brothers. Crime was registered on the basis of the complaint by a bank. There was an allegation that there was no proper investigation. The first accused contended that he was defrauded. Accordingly, this court had directed that investigation be conducted by the C.B.I. The C.B.I has already arrested accused 4 and 5. They have already been enlarged on bail by this court. The petitioner applies for anticipatory bail in this petition. The learned counsel for the petitioner submits that the petitioner is absolutely innocent and that false allegations have been unnecessarily raised against the petitioner. It is, in these circumstances, prayed that anticipatory bail may be granted to the petitioner.

2. The learned Public Prosecutor opposes the application. He submits that investigation has revealed a series of three instances of alleged fraudulent deception of the first accused Mathaichan Mathew by his brothers and the petitioner allegedly impersonated and

availed loans in the name of the first accused pretending that he is really the first accused. Investigation is in progress. It is not necessary now to arm the petitioner with any order of anticipatory bail, submits the learned Public Prosecutor.

3. Notwithstanding the opposition by the learned Public Prosecutor, I am satisfied that directions under Section 438 Cr.P.C can be issued in favour of the petitioner. I have already adverted to facts in some detail in the order passed in the regular bail application of accused 1 and 5 in B.A.No.4285/2007. I am satisfied that subject to appropriate conditions which shall ensure the interests of a fair, efficient and expeditious investigation, anticipatory bail can be granted to the petitioners.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 23/7/2007.

ii) He shall be released on regular bail on condition that he executes a bond for Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 5 p.m on 24/07/2007 and 25/07/2007, during which period, the

investigating officer shall be entitled to interrogate the petitioner in custody and effect recoveries, if any. The petitioner shall thereafter make himself available on all Mondays and Fridays between 10 a.m and 12 noon for a period of one month. Subsequently the petitioner shall so appear as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 23/7/2007, he shall be released from custody on his executing a bond for Rs.50,000/- (Rupees fifty thousand only) without any sureties, undertaking to appear before the learned Magistrate on 23/7/2007.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007